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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,639	11/02/2001	Bharat I. Chaudhary	44417A	1542

22515 7590 06/30/2004

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
2301 N BRAZOSPORT BLVD
FREEPORT, TX 77541-3257

EXAMINER

CAIN, EDWARD J

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/003,639	Applicant(s) CHAUDHARY ET AL.	
	Examiner Edward J. Cain	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,13,24-31,33 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8,13,24-31,33 and 35-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7, 8, 24-27, 30, 31 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by MacAdams et al.

MacAdams et al disclose rotationally molded articles produced from compositions comprising HDPE as the major resinous component along with 5-40 wt% ethylene vinyl acetate having a vinyl acetate content of 5-35 wt% (column 1, line 60 to column 2, line 23). Each of Charts III and IV of the reference demonstrate improved impact strength values for the compositions over the pure HDPE. These values meet the limitation of the instant claims.

Claims 1-5, 7-8, 24-28, 30-31 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Needham.

Needham discloses compositions suitable for rotational molding comprising polyethylenes with density values of 0.92-0.97 and ethylene vinyl acetate with vinyl acetate contents of 5-50 wt% (column 2, line 47 and column 3, line 35). The relative amounts of EVA are taught as up to 4 wt%. Relative impact values between the pure

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polyethylene and the compositions are taught in Table I and are seen as meeting applicants' claimed limitation.

The density values taught for the polyethylene are seen as encompassing those of the LLDPE claimed instantly.

Claims 1-4, 6-8, 24-27, 29-31 and 35-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Okayama et al.

Okayama et al disclose polypropylene compositions suitable for injection mold, blow molding and film formation (abstract, column 1, line 27-35 and column 4, lines 17-19). These compositions are taught as comprising a major portion of polypropylene and a minor portion of EVA. The EVA is taught as having a vinyl acetate content meeting applicants' limitation and as being present in relative proportions as claimed instantly (see claims 11, 19 and 20).

While the reference may not explicitly recite relative values of impact strength before and after addition of the EVA, it is the position of the examiner that values such as claimed instantly would be inherent to the compositions of the reference since all other limitations in the rejected claims are met.

Claims 1-5, 7-8, 24-28, 30-31 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Kozma et al.

Kozma et al disclose polymeric compositions comprising LLDPE and EVA with vinyl acetate content of 9 to 60 wt % and in relative amounts such as claimed instantly (see claims). These compositions are taught as suitable for rotational molding (column 12, line 27).

While the reference may not explicitly recite relative values of impact strength before and after addition of the EVA, it is the position of the examiner that values such as claimed instantly would be inherent to the compositions of the reference since all other limitations in the rejected claims are met.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kozma et al in view of Swain.

Kozma et al disclose rotational molding compositions as discussed above. The reference is silent with respect to applicants' claimed particle size.

The reference to Swain is cited as teaching typical particle sizes for rotational molding as being from 22-50 mesh (column 1, line 47).

Therefore it would have been obvious to one of ordinary skill in the art to produce particles of the Kozma et al compositions with particle sizes as taught by Swain when rotational molding was the intended use.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Cain whose telephone number is (571) 272-1118. The examiner can normally be reached on M-F from 10:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571 272-1119. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Edward J. Cain
Primary Examiner
Art Unit 1714

A handwritten signature in black ink, appearing to be 'E. J. Cain', written in a cursive style.